

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VERONICA EMINOVNA ALIYEVA,

Plaintiff,

v.

AMERICAN HONDA MOTOR CO.,
INC.,

Defendant.

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CIVIL ACTION NO. 4:20-cv-3600

**DEFENDANT AMERICAN HONDA MOTOR CO., INC.’S
NOTICE OF REMOVAL**

American Honda Motor Co., Inc. (“AHM”) files this Notice of Removal from the 129th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division. As grounds for removal, AHM shows the following:

COMPLIANCE WITH 28 U.S.C. § 1446(a) AND LR81

1. Pursuant to 28 U.S.C. § 1446(a) and LR81, AHM includes the following index of matters being filed with this Notice of Removal:

Exhibit No. Description

Exhibit 1: All executed process in the case

Exhibit 2: Plaintiff’s Original Petition and Request for Disclosure

Exhibit 3: AHM’s Answer to Plaintiff’s Original Petition

Exhibit 4: State Court Docket Sheet

Exhibit 5: A list of all counsel of record, including addresses, telephone numbers and parties represented

THE PARTIES

2. AHM is a California citizen, and Plaintiff is a Texas citizen. Complete diversity of citizenship has existed from the time Plaintiff filed the underlying state court action on September 15, 2020 until now.

A. Plaintiff

1. Plaintiff Veronika Eminovna Aliyeva is a Texas citizen. She is a resident of Harris County, Texas, *see* Ex. 2, Petition ¶ 2, and Plaintiff's residence allegation is *prima facie* evidence of Texas citizenship for diversity purposes. *Preston v. Tenet Healthsystem Mem'l Med. Ctr., Inc.*, 485 F.3d 793, 797 (5th Cir. 2007) ("In determining diversity jurisdiction, the state where someone establishes his domicile serves a dual function as his state of citizenship."); *Hollinger v. Home State Mut. Ins. Co.*, 654 F.3d 564, 571 (5th Cir. 2011) ("Evidence of a person's place of residence . . . is prima facie proof of his domicile.").

B. Defendant

2. Defendant American Honda Motor Co., Inc. is a California corporation with its principal place of business in California. AHM is, therefore, a citizen of California.

STATE COURT ACTION

3. AHM removes the state court action styled *Veronika Eminova Aliyeva v. American Honda Motor Co., Inc.*, Cause No. 2020-56671, in the 129th Judicial District Court of Harris County, Texas. Against AHM, Plaintiff alleges strict product liability and negligence causes of action related to a November 19, 2017 crash in which Plaintiff was

the left rear passenger in a 2010 Honda Civic LX bearing vehicle identification number 2HGFG1B68AH525240 (“subject vehicle”). Ex. 2, Petition.

REMOVAL PURSUANT TO DIVERSITY OF CITIZENSHIP

4. AHM removes this action pursuant to 28 U.S.C. § 1441(a). This Court has jurisdiction based on 28 U.S.C. § 1332(a)(1) in that “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between . . . citizens of different States.”

A. Amount in Controversy

5. “Plaintiff shall ask the jury to award more than \$1,000,000.00 in the aggregate for all elements of recovery.” Ex. 2, Petition ¶ 20.

B. Diversity of Citizenship

6. AHM is a California citizen, and Plaintiff is a Texas citizen. Given the complete diversity of citizenship, this Court has jurisdiction under 28 U.S.C. § 1332(a)(1), and removal is proper under 28 U.S.C. § 1441(a).

PROCEDURAL REQUIREMENTS OF REMOVAL

A. Timeliness

7. AHM timely files this Notice of Removal because thirty days have not elapsed since Plaintiff served AHM with the Petition on September 22, 2020. Ex. 1. *Cf.* 28 U.S.C. § 1446(b)(1).

B. Venue

8. Plaintiff brought this action in the 129th Judicial District Court of Harris County, Texas—located within the Southern District of Texas, Houston Division. 28

U.S.C. § 124(b)(2). Accordingly, venue is proper in this Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

C. Compliance with Notice Requirements

9. Pursuant to 28 U.S.C. § 1446(d), AHM will promptly give written notice of the filing of this Notice to Plaintiff and file a copy of the Notice of Removal with the clerk for the 129th Judicial District Court of Harris County, Texas.

D. Filing Fee

10. A filing fee of \$400 has been tendered to the Clerk of the United States District Court for the Southern District of Texas, Houston Division.

E. Other Filings

11. Pursuant to Local Rule 3, AHM attaches a civil action cover sheet (JS44c).

F. Jury Demand

12. AHM renews its state-court demand for a jury trial on all issues so triable in this case. Ex. 3, Answer ¶ 22. *Cf.* Fed. R. Civ. P. 81(c)(3)(A).

G. Request for Leave to Amend

13. In the event this Court subsequently identifies a defect in this Notice of Removal, AHM respectfully requests the Court grant AHM leave to amend this Notice and cure the defect. *See, e.g., Bailon v. Landstar Ranger, Inc.*, 3:16-CV-1022-L, 2016 WL 6565950, at *4 (N.D. Tex. Nov. 3, 2016) (citing *In re Allstate Ins. Co.*, 8 F.3d 219, 221 & n.4 (5th Cir. 1993)) (procedural defects may be cured by the filing of an amended notice of removal); *Lafayette City-Parish Consol. Government v. Chain Elec. Co.*, No. 11-1247,

2011 WL 4499589, at *7 (W.D. La. Sept. 23, 2011) (explaining “defendants may freely amend the notice of removal required by section 1446(b).”).

CONCLUSION

Based on the foregoing, AHM removes this case to this Court. This Notice of Removal is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure, as required under 28 U.S.C. § 1446(a).

Respectfully submitted and signed pursuant to
Federal Rule of Civil Procedure 11,

By: /s/ Ben Zinnecker

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CERTIFICATE OF SERVICE

This instrument was served on the following counsel in compliance with Rule 5 of the Federal Rules of Civil Procedure on October 21, 2020:

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